IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.6896 OF 1999

Mahadev Vithu Pandhare & Ors. ..Petitioners.

Vs

Mahadeo Ramchandra Lawate & Anr ..Respondents

Mrs Poonam P.Bhosale, for the petitioners.

Smt Indrayani Koparkar i/b Mr N.P.Deshpande, for R.No.1.

CORAM : D.B.BHOSALE,J.

DATE : 1st September, 2005.

PC:

1. Heard learned counsel for the parties.

2. This petition is directed against the order passed in the proceedings arising from Exhibit-5 application. The petitioners are the original defendant nos 1 to 3. Respondent no.1 has filed a suit bearing Regular Civil Suit No.163 of 1997 and the application Exhibit-5 for temporary injunction. That application was rejected by the trial Court vide order dated 18.2.1998. Feeling aggrieved by this order, respondent-plaintiff preferred Misc.Civil Appeal No.24 of 1998, which came to be allowed by order dated

2.9.1999 by the learned 2nd Addl.District Judge, Baramati. The operative part of the order in appeal reads thus:-

> "1. The appeal is allowed with costs.
>
> 2. The order under appeal passed by Ld.Trial Judge is set aside.
>
> 3. The application Ex.5 in R.C.S.No.163/97 is allowed and the defendant nos 1 to 3 are restrained from causing obstruction in the plaintiff's enjoyment and possession of the suit land Gat No.357 admeasuring 2 H from eastern side till the decision of the suit.
>
> 4. Judgment is dictated and pronounced in the open Court."

3. This Court, while admitting the instant writ petition, has passed the interim order on 21.12.1999 in terms of prayer clause (c). The prayer clause (c) reads thus:

> "(c) To grant, during the pendency of the petition, stay to the impugned judgment and order dated 2.9.1999 passed by the learned IInd Addl. District Judge, Baramati in Misc. Civil Appeal No.24 of 1998"

While passing the aforesaid interim order, the trial Court was directed to hear and dispose of Regular Civil Suit No.163 of 1997 and Regular Civil Suit

No.163 of 1997 expeditiously and together. Ms. Poonam Bhosale, learned counsel for the petitioners, is not in a position to state whether the aforesaid regular civil suits are disposed of as per the directions given by this Court vide order dated 21.12.1999. Keeping that in view and considering that the interim order passed by this Court is running since 21.12.1999 against the respondents, I find no reason to keep this matter pending any more and interest of justice would be met by the following order.

(a) If Regular Civil Suit Nos 68/1997 and 163/1997 are still pending and are not disposed of, as directed by this Court vide order dated 21.12.1999, the trial Court shall hear and dispose of the same as expeditiously as possible and preferably within a period of six months from the date of receipt of this order.

(b) The interim order in terms of prayer clause (c) granted by this Court on 21.12.1999 shall remain operative till disposal of the aforesaid suits.

(c) The trial Court shall decide the suits, if not disposed of already, on merits in accordance with law and uninfluenced by the orders passed in the

proceedings arising from Exhibit-5 application.

(d) Rule is accordingly disposed of.

(D.B.BHOSALE, J.)